

POLOZOLA DECLARATION

EXHIBIT B

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A P P E A R A N C E S

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GREG BINGHAM; May 23, 2019

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24 Also present: KATIE HALL, Legal Assistant

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1 Q. How many times?

2 A. I would say between five and ten times.

3 Q. And how far back time wise was your first
4 retention by Holland and Knight?

5 A. Approximately ten years ago.

6 Q. Have you been -- excuse me. Have you done
7 work for the GEO Group aside from your testimony in
8 this case?

9 A. I have not.

10 Q. Has any of your prior experience involved
11 issues related to state law labor standards?

12 MR. DONOHUE: Object to the form.

13 A. So state procurement regulations multiple
14 times, I don't remember it involving -- would you
15 restate your question.

16 MR. POLOZOLA: Would you read the
17 question back, please.

18 [The question was read back by the reporter.]

19 A. I believe so.

20 Q. How so?

21 A. I think state law labor standards have been
22 implicated in some of the work we have done assisting
23 construction contractors in their reporting of
24 information about their union and other workers to, I
25 believe it was, the state -- I'm fairly sure it was the



1 state regulatory body. So that's how I remember right
2 now I've encountered it. There may be more.

3 Q. But can you recall any others specifically?

4 A. And again it's the labor standards. And I'm
5 struggling a bit because I work on procurement issues
6 at the state level a fair amount. But the labor
7 standards -- I can't remember other times when I've
8 dealt with the labor standards, or interfaced the labor
9 standards.

10 Q. So for the example you did mention the
11 construction contractors. Did that involve an analysis
12 of state minimum wage requirements?

13 A. It did not.

14 Q. Have you worked on any other matters involving
15 state minimum wage requirements?

16 A. I don't remember at the time.

17 Q. Has any of your prior experience involved
18 issues related to federal detention standards?

19 A. Somewhat, yes.

20 Q. How so?

21 A. Well, one of the matters -- and I can draw
22 your attention to page 6 of my appendix 2. At the top
23 of the page there is a matter listed, it starts with
24 Medical Development International Inc., and a long list
25 of people and companies. And this related to the



1 provision of medical services for detainees, for
2 prisoners, at various prison facilities.

3 Q. Do you have any other experience with federal
4 detention standards aside from that one case?

5 A. My memory is fuzzy on this, it's hard over 33
6 years. But I think I worked on a bid protest where a
7 company that provides -- it may be a competitor of GEO
8 for all I know -- but provides that type of services,
9 did not get awarded a federal contract and protested
10 that nonaward. And I worked on that matter, I believe.
11 My memory is fuzzy on that.

12 Q. Do you have any experience with private
13 prisons or detention facilities, generally speaking?

14 MR. DONOHUE: Object to the form.

15 A. Could you -- by experience, could you expand
16 on that.

17 Q. Sure. Do you have prior experience where you
18 have contracted -- or excuse me. Do you have prior
19 experience where you have worked as a consultant for
20 other private detention companies or private prison
21 companies?

22 A. Just the bid protest that my memory is
23 somewhat fuzzy on. Just that.

24 Q. Have you worked on -- well, let me give you
25 some preface here. Putting aside the identity of the



1 client, have you ever worked on any issues relating to
2 private detention or private prison aside from this
3 case?

4 A. Aside from the bid protest, I don't remember a
5 time.

6 Q. So in the bid protest that you mentioned, what
7 was the name of the company that you were working with?

8 A. I'm sorry. I don't remember.

9 Q. Do you recall the outcome of that?

10 A. No. And let me say, I remember discussing
11 this matter and then -- but I don't remember if --
12 sometimes in a bid protest the company is trying to
13 decide whether they need a cost expert or someone that
14 does what I do, and they will ask us to fill out a
15 protective order application to be admitted to the
16 case, and then they won't need us. So we review some
17 documents and we get ramped up, but then we don't end
18 up doing it. That may have happened, and that may be
19 why my recollection is fuzzy on what the matter was.
20 And it's also quite some time ago.

21 Q. Have you ever worked as an expert in a case
22 where you were hired by a state government?

23 A. I don't believe so.

24 Q. Have you ever worked as an expert in a case
25 where you were hired by a local government?



1 contractors versus government agencies?

2 A. Well, there are contractors that work for the
3 government that are effectively an arm of the
4 government, and I'm thinking about these M&O, that's
5 management operations contracts, for example, that the
6 Department of Energy awards where the contractor then
7 runs like Sandia National Lab or Los Alamos National
8 Lab, or the Hanford site, or Oakridge Tennessee site
9 for the federal government. So I've worked for those
10 entities multiple times. And in your question of me
11 for the split, where do I put those is kind of what I'm
12 getting at.

13 Q. Yeah. So I guess let's go back to your
14 initial answer where I believe you referred to
15 government contractors or commercial entities versus
16 government entities. So I'm using the split that you
17 used in your answer, and I want to know how that shakes
18 out numbers wise.

19 MR. DONOHUE: Object to the form.

20 A. It's much more -- it's more than 90 percent.
21 It's 90-10 or so or higher depending on how you split
22 these M&O contractors that are effectively the
23 government.

24 Q. Okay. So I think you mentioned in your report
25 that you had experience regarding improper labor



1 talking about employees and you asked about detainees.
2 I am distinguishing them in my -- I was distinguishing
3 the employee versus detainee in my answer.

4 Q. Have you -- in number 7 here, this is what I'm
5 referring to -- "forensic investigation of accounting
6 matters involving allegations of issues such as
7 defective pricing, improper billings, mischarges and
8 improper labor charging." Has any of that work
9 involved improper labor charging at private detention
10 facilities?

11 A. I don't believe so.

12 Q. You mentioned earlier that you had worked on
13 certain damage-related issues. Are you offering any
14 opinions in this case as to economic or damages-
15 related issues?

16 A. I am not.

17 Q. So on the same topic that we were just
18 discussing, you may have mentioned that you've
19 consulted on what the standards are for how employers
20 record time. So can you explain to me generally what
21 is the industry standard for how employers are supposed
22 to record time, if any?

23 MR. DONOHUE: Object to the form.

24 A. And this is -- what I'm addressing is how
25 companies are to instruct their employees to record



1 A. And I'm just on page 1, first paragraph,
2 second sentence, "Kenrich was retained to perform an
3 independent and objective analysis of the government
4 contracts that are the subject of the dispute -- GEO's
5 Federal Government contracts for a detention facility
6 in support of US Immigration and Customs Enforcement's
7 Seattle field office.

8 Q. So what about the contracts were you asked to
9 analyze?

10 A. Well, determine if the solicitation process
11 and the contracts awarded were typical of federal
12 government procurement practices, and to review the
13 practices related to certain passthrough costs, which
14 included payments made to detainees in accordance with
15 the voluntary work program, and if you will, the
16 contract administration -- various contract
17 administration practices related to the voluntary work
18 program and the billing of costs, the billings to ICE
19 and the oversight of the contract. That's the types of
20 things I was asked to review.

21 Q. And I think we established earlier that at the
22 time of your report you had not reviewed any contracts
23 prior to the 2015 contract discussed here?

24 A. I believe that's correct.

25 Q. And I think -- correct me if I'm wrong. I



1 your earlier question you limited it to before I
2 authored the report.

3 Q. Let's go with ever, since it will be a more
4 inclusive answer.

5 A. Ever. Yes. So I've reviewed a 2002 contract,
6 a contract awarded July 2002 that was, I believe, by
7 INS to CSC.

8 Q. What is CSC?

9 A. Correction -- I don't remember. I believe the
10 first C was correction. I don't want to speculate.

11 Q. Okay. Can you tell me what that contract
12 related to, what types of services, products?

13 A. So that was the one that I referred to earlier
14 that may have been the first in the series on this
15 matter -- that's vague. Let me restate that. That may
16 have been the first contract at the Northwest Detention
17 Center.

18 Q. Okay.

19 A. From July of 2015.

20 Q. So turning to your summary of opinions, the
21 opinions you're offering in this case. I just want to
22 walk through and make sure I understand what your
23 opinions are. So at page 3 you say the solicitation
24 process for contract HSCEDM-15-D-00015 and the
25 resulting contract are typical of Government



1 procurements." Is that your opinion today?

2 A. It is my opinion, yes.

3 Q. And what other government procurement are you
4 comparing this solicitation process to?

5 A. It's -- so over the course of my career, 33
6 years, I've kind of developed a body of knowledge of
7 the process by which the federal government, and, to a
8 lesser extent, state governments and some foreign
9 governments procure goods and services. And that's
10 part of what I teach at George Washington University,
11 and what I teach for the National Contract Management
12 Association and the ABA and some others. That's --
13 when I say the solicitation process here it's typical,
14 I'm referring to that it's typical of U.S. government
15 contracts for goods and services of this nature.

16 Q. So if I wanted to test that theory and compare
17 against other contracts, what contracts would I compare
18 it against?

19 MR. DONOHUE: Object to the form.

20 A. Of fixed-price contracts. I mean, there are
21 different categories -- there is sealed bid, fixed
22 price, and there's cost plus and commercial item. And
23 this is very kind of typical of a FAR 15, federal
24 acquisition regulation 15, a contract that is kind of a
25 solicitation process that is executed in accordance



1 insurance, his insurance for working, his personal
2 health insurance and things like that. His car, what's
3 the depreciation on his car that he uses to, say, drive
4 to and from the site. What have his tools cost, that
5 sort of thing. So in those three you have cost
6 reimbursement was last one, time and material, and
7 fixed price. And this is pretty typical of a fixed
8 price.

9 MR. DONOHUE: Can we take a break?

10 MR. POLOZOLA: Sure.

11 [A brief recess was taken.]

12 Q. [By Mr. Polozola] Okay. So I want to continue
13 on with just your summary of opinions here. And I
14 think on page 3 you say "There appears to have been no
15 ambiguity between ICE and GEO about the Voluntary Work
16 Program, the payment to program participants, and GEO's
17 reimbursement for those payments, which is detailed in
18 CLIN 0003 Detainee Voluntary Wages." Is that your
19 opinion today?

20 A. It is.

21 Q. On the payment to detainees aspect of that
22 sentence, what do you believe is unambiguous?

23 A. That they were to receive -- that it was to be
24 a passthrough cost and that they were to receive a
25 dollar a day -- a dollar a shift.



1 Q. And on that second issue of a dollar a shift,
2 is it your position that the contract requires GEO to
3 pay them a dollar per shift?

4 MR. DONOHUE: Object to the form.

5 A. Based on, like, the standards and practices in
6 my work in the federal procurement, I think people
7 would interpret that or would operationalize that as
8 that is what they needed to do is pay them a dollar a
9 day -- a dollar a shift, a dollar a day.

10 Q. Okay. What standards are you referring to?

11 A. Well, let me -- I mean, I could refer to the
12 Nash and Ciminic Good Administration of Government
13 Contracts, I could refer to the Contract Pricing
14 Reference Guides by the Defense Acquisition University,
15 could refer to the Formation of Government Contracts by
16 Nash and Ciminic, and various other treatises that kind
17 of form my opinions, the body of knowledge that I
18 developed. But based on that, that's how a contractor
19 would and should operationalize the contract.

20 Q. So I just want to understand clearly. This is
21 how you interpret the contract?

22 MR. DONOHUE: Object to the form.

23 A. I'm at page 1, the third paragraph. I'll just
24 say, I have not been asked to and do not express an
25 opinion on the proper interpretation of regulations



1 reimbursement for those payments, which is detailed in
2 CLIN 003, Detainee Volunteer Wages." And my question
3 was, are you offering an interpretation of the
4 contract?

5 A. No.

6 MR. DONOHUE: Object to the form, asked
7 and answered.

8 Q. Are you offering any opinions on whether ICE
9 believed this contract to be ambiguous or unambiguous?

10 MR. DONOHUE: Could you restate that
11 question, please.

12 Q. Are you offer any opinions as to whether ICE
13 believed the contract to be ambiguous or unambiguous?

14 MR. DONOHUE: Object to the form.

15 A. I'll say based on my 33 years of experience
16 that ICE behaved as if there was no ambiguity. They
17 behaved as if the actions of GEO were what was
18 intended.

19 Q. Did you speak with anyone from ICE?

20 A. I did not.

21 Q. So then continuing on through your summary of
22 opinions here, you referred to GEO's expected rate of
23 reimbursement for the \$1-a-day payments as reflecting
24 passthrough costs, and you note that they were not
25 marked up to include indirect cost, profit, or the



1 added cost of administering the VWP. And you go on and
2 say, "GEO's invoice submission, and ICE's evaluation
3 and payment processes, are typical of other billing,
4 evaluation, audit, and payment practices I have
5 evaluated during the course of my career." Is that
6 your opinion today?

7 A. It is.

8 Q. And what other practices are you comparing the
9 ICE-GEO process to?

10 A. Well, okay. I'll just take this in turn. The
11 bills, the invoices, I've reviewed hundreds, certainly
12 thousands of invoices from government contractors to
13 agencies of the federal government. And this, the
14 invoices here, the way they are structured are typical
15 of matters like this with a CLIN structure such as we
16 have here. The evaluation process and the audit
17 process -- the audit process is typical in that ICE --
18 I mean, the multiple bodies auditing the contractor's
19 compliance with the contract from ICE to the quality,
20 the surveillance, quality assurance surveillance plan,
21 whatever that is addressed later to OSHA, to internal
22 audits, to the state health agencies, et cetera. The
23 audit is overseen here, the audit environment here is
24 typical for a contract of this nature. And the payment
25 practices are typical. And I'm basing that on the body



1 of knowledge I've developed with regard to payment
2 practices by federal government agencies.

3 Q. Okay. And we'll move on. I think we're on
4 page 4 now. You state at the end of the first
5 paragraph, "it therefore does not appear that GEO's
6 performance on the contract was deficient." And as I
7 understand it, it's your opinion that it was not
8 deficient because ICE did not pursue remedies or
9 sanctions or termination of the contract in any way
10 based on GEO's performance.

11 MR. DONOHUE: Object to the form.

12 Q. Am I understanding that correctly?

13 A. It's not limited to what you said, but that's
14 part of it.

15 Q. Okay. Can you explain the summary here so I
16 can understand what your opinion is on this?

17 A. Certainly.

18 MR. DONOHUE: Object to the form.

19 A. Well, from the beginning to the end -- and
20 I'll expand on that. From the beginning to the end
21 they appear to be in lockstep and in congruence on what
22 was to happen. And I'll say that from the beginning,
23 ICE circulated a solicitation that had certain
24 requirements. And GEO submitted a proposal to ICE
25 which mirrored those requirements, saying they would



1 Q. This line item requires GEO to have a
2 voluntary work program; is that your statement?

3 MR. DONOHUE: Object to the form.

4 A. This is how -- this is addressing payment, and
5 so this is -- other places the requirement -- well,
6 here and other places is the requirement for the
7 voluntary work program. And this is how GEO is to bill
8 ICE and how GEO is to pay detainees.

9 Q. Okay. So on that point is it accurate to say
10 that CLIN 3 addresses the rate at which ICE must
11 reimburse GEO for payments made to detainees who
12 participate in the voluntary work program?

13 A. It is both the rate at which ICE will
14 reimburse GEO and GEO will pay the detainees. It's
15 both.

16 Q. So I just want to understand. So yes to the
17 question, but there is something additional, which is,
18 if I am understanding what you're saying, it's your
19 position that this sets forth a requirement that GEO
20 pay detainees \$1 a day; is that accurate?

21 MR. DONOHUE: Object to the form.

22 A. That is accurate.

23 Q. Where in line item 3 does it state that GEO is
24 required to pay detainees \$1 a day?

25 A. The second sentence "Reimbursement for this



1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 Q. Are you aware of whether GEO has sought
7 permission to exceed payments under CLIN 3 from ICE?

8 A. Definitively, no, I don't.

9 Q. Does CLIN 3 or anywhere else in the contract
10 state that GEO is limited to paying detainees \$1 per
11 day?

12 MR. DONOHUE: Object to the form.

13 A. CLIN 3 indicates that GEO is limited to paying
14 the detainees to \$1 per day.

15 Q. So does GEO have the option of paying
16 detainees more than \$1 per day in your opinion?

17 A. Not without -- this program is an ICE program.
18 If ICE told GEO, We want you to pay something other
19 than a dollar per day, ICE has the ability to direct
20 GEO to do that. And under a circumstance like that, I
21 think it would be typical of GEO to follow the
22 directions given by the contracting officer or the COR.

23 Q. So back to kind of the question that started
24 this part of our conversation. In addition to CLIN 3
25 and the paragraph on the voluntary work program that



1 So this is not an atypical list.

2 Q. And for q. specifically, applicable federal,
3 state and local labor laws and codes, is that a typical
4 constraint that is included in federal contracts?

5 A. Sometimes it will have stronger language than
6 this, but some reference to them is typical, yes.

7 Q. So turning back to the PBNDS, under j, did you
8 review the PBNDS in preparing your report?

9 A. I did.

10 Q. Okay. And which version did you review?

11 A. I believe it was the 2011 version updated in
12 2016.

13 Q. And had you reviewed, or have you reviewed,
14 any other versions of the PBNDS?

15 A. I don't believe so.

16 Q. Were you familiar with the PBNDS before you
17 provided your report in this case?

18 A. I don't remember seeing it before. I may have
19 in that MDI matter I mentioned, but I don't recall it.

20 Q. Okay. Are you aware of whether the PBNDS have
21 changed in any way during the period of the GEO-ICE
22 contract?

23 A. And you're referring to the 2015 contract.

24 Okay. So in the version that I saw there were some
25 red, I believe edits in red, that were intended to show



1 ICE and say, I would like you to mod CLIN 3 to say
2 something different than CLIN 3 currently says.

3 Q. Would that be consistent with this provision
4 of the PBNDS?

5 MR. DONOHUE: Object to the form.

6 A. Well, I just said that they could go to ICE
7 and say, we would like to modify CLIN 3 in any -- and
8 I'm just directing in any way -- to increase the price,
9 to reduce its actual cost. To increase the actual
10 cost, reduce the actual cost, they could ask for any --
11 I don't know why they would, but you're asking is it
12 theoretically possible? It is theoretically possible.

13 Q. So could GEO pay detainees more than \$1 per
14 day under the PBNDS 2011?

15 MR. DONOHUE: Object to the form.

16 A. I don't think they could under the contract.

17 Q. That wasn't my question. I'm referring to
18 this section on compensation that we just reviewed.
19 Does this limit GEO to paying detainees \$1 per day?

20 A. I think the contract limits them to paying
21 them the actual cost of \$1 per day. This says at least
22 \$1.

23 Q. Okay. And can we agree that "at least \$1"
24 means that you could pay more than \$1 under this
25 section of the PBNDS?



1 MR. DONOHUE: Object to the form.

2 A. This says at least a dollar, but the contract
3 says actual cost of a dollar, exactly a dollar. I
4 added the word "exactly," but it says "actual cost of
5 \$1."

6 Q. So you're not offering any opinion in this
7 case that the PBNDS requires payment of only \$1 to
8 detainees in the VWP, correct?

9 A. I don't think it governs on the payment of --
10 CLIN 3 governs my opinion on the passthrough cost, the
11 actual cost that shall be paid to the detainees and
12 reimbursed by ICE.

13 Q. And why doesn't this govern in your view?

14 MR. DONOHUE: Object to the form.

15 A. Well, I mean, CLIN 3 is very clear that it's
16 exactly a dollar. This can be a dollar or more. So
17 how do you interpret the contract, and you're asking
18 for contract interpretation of questions -- I'm giving
19 that, even though I said in my report, for my purposes
20 in my report I did not provide contract interpretation.
21 But I'm doing it now. The way to interpret those
22 consistently would be exactly \$1. That comports with
23 CLIN 33 and it comports with PBNDS.

24 Q. So back to the contract modification topic we
25 discussed a bit earlier. Could GEO as you understand



1 it obtain a contract modification to pay detainees more
2 than \$1 per day for participation in the VWP and be
3 consistent with the PBNDS?

4 MR. DONOHUE: Could you read that back.
5 I'm sorry.

6 [The question was read back by the reporter.]

7 MR. DONOHUE: Object to the form.

8 Q. Do you understand the question?

9 A. I think that I do. I mean, I think we talked
10 about this. I think it's kind of asked and answered,
11 although I'll answer it. The contractor can ask to mod
12 the contract where there's a request to mod any aspect
13 of the contract. I can't think of an aspect of the
14 contract that the contractor cannot request a mod.
15 Now, would the contractor get the mod? Would it be in
16 the best interest of the contractor or the government
17 or anybody else to mod? That's a different question.
18 But can they request to mod the contract? Yes, they
19 can.

20 Q. We discussed earlier whether GEO was required
21 to pay only a dollar a day, and I think we have covered
22 that ground. And correct me if I'm wrong that it's
23 your position that GEO is required under the contract
24 to pay only \$1 per day to detainees in the VWP,
25 correct?



1 A. I'll just add to pay their actual cost of \$1
2 per day, yes.

3 Q. So does GEO have the option of paying more
4 than \$1 per day?

5 MR. DONOHUE: Object to the form.

6 A. Well, not in accordance with the contract. I
7 mean, can a company break the law, can a company breach
8 the contract? Yeah, they could breach the contract and
9 do something different than the contract, and until
10 they were caught they could pay more. So I'm saying
11 out in Never Never Land, so to speak, it is impossible,
12 but not in accordance with the contract.

13 Q. So are you saying that it would be a breach of
14 the contract to pay more than \$1 a day to detainees in
15 the VWP?

16 A. Yes.

17 Q. For GEO to pay the detainees. I'm not talking
18 about GEO submitting reimbursement to ICE for more than
19 \$1 a day.

20 MR. DONOHUE: Object to the form.

21 A. It would not be in accordance with the
22 contract. I think -- I mean, if breach means not in
23 accordance, I think breach is the right term.

24 Q. So I just want to understand this point about
25 GEO's ability to pay more to detainees -- a bit more if



1 you'll indulge me. So I understand that GEO can only
2 be reimbursed for actual cost is your opinion,
3 correct -- with regard to the detainee work program
4 wages?

5 A. I'll go further and say they can only be
6 reimbursed actual cost of \$1 per day per detainee.

7 Q. So if the federal court in this case orders
8 GEO to pay detainees \$12 or more per hour instead of \$1
9 a day and GEO complies with that order, would GEO be in
10 violation of the ICE-GEO contract?

11 MR. DONOHUE: Object to the form.

12 A. I have no -- you're asking a question about
13 federal law versus a contract, and that would not be in
14 accordance with the contract. But would it be -- would
15 it somehow override? I think you're asking -- I don't
16 have a considered opinion on that.

17 Q. Okay. I'm not asking you to reach a legal
18 conclusion, to be clear. But it's to this whole series
19 of questions of can GEO pay detainees more. And the
20 followup here is if they are told by a court to pay
21 more, am I understanding you that it would not be in
22 accordance with the terms of the contract; is that your
23 testimony?

24 MR. DONOHUE: Object to the form.

25 A. That is what I said, but I also said I have



1 not thought about that, and that sounds complicated.
2 And I don't have a considered opinion on that. What
3 I'm struggling with is who wins there, the federal
4 judge or the contract, you know, ICE or -- I mean,
5 you've got the executive branch versus the judicial
6 branch, I'm sure that's -- well . . .

7 Q. Fair to say that's not your domain?

8 A. That's not my domain.

9 [Exhibit No. 201 was marked for identification.]

10 Q. So I've handed you what's been marked as
11 Exhibit 201.

12 MR. POLOZOLA: And I'll state for the
13 record that this is a copy of the GEO Group's responses
14 to Washington's second set of requests for admissions.

15 Q. [By Mr. Polozola] And because you are not a
16 lawyer, I can give you a brief explanation of what this
17 document is. The state has asked GEO to admit to
18 certain facts, and GEO provided written responses.
19 Have you reviewed this document before?

20 A. I have not.

21 Q. Have you discussed this document with anyone
22 before?

23 A. I don't know the content of this document. I
24 may have discussed some of the content, I don't know.
25 But I haven't discussed this document.



1 Q. And so directing your attention to RFA 67 and
2 I'll find you the page.

3 MR. DONOHUE: Page 21.

4 MR. POLOZOLA: Thank you.

5 Q. [By Mr. Polozola] So the request for admission
6 no. 67 says, "Please admit that GEO has the option to
7 pay more than \$1 a day to detainee workers for work
8 performed in the VWP at the NWDC." And the response is
9 "Admit." Is your testimony consistent with GEO's
10 position in this case --

11 MR. DONOHUE: Object to the form.

12 Q. -- as stated in RFP 67?

13 A. What I said is not consistent with RFA 67.

14 Q. Does this modify or cause you to want --
15 excuse me. Having viewed this, does this modify any of
16 the opinions you hold in this case?

17 A. No.

18 Q. Okay. So looking at page 10 of your report
19 here, second full paragraph, where you're discussing
20 passthrough costs. And there are two sentences here
21 about costs associated with administering the voluntary
22 work program. So the last sentence here says "All
23 costs GEO expected to incur in administering the
24 Voluntary Work Program had to be factored into the
25 fixed prices included in the CLINs."



1 A. Let me say that in my report I said I was not
2 interpreting contracts or the regulations, and I'm not.
3 But I think you're asking me to interpret that, and as
4 such, just as a layman I suppose, it does appear to say
5 that.

6 Q. And so the following sentence, "When a
7 conflict exists" -- excuse me -- "Should a conflict
8 exist between any of the aforementioned standards, the
9 most stringent shall apply," is that similar to the
10 requirement we discussed for the later contracts with
11 regard to conflicting provisions and how stringent
12 standards apply?

13 MR. DONOHUE: Object to the form.

14 A. It is similar. It is certainly similar.

15 Q. Are they identical?

16 MR. DONOHUE: Same objection.

17 A. I would want to line them up side by side.
18 The last sentence appears to be identical. The second
19 one may be identical, but I don't want to say that they
20 are without checking.

21 Q. So if you can turn to Bates page 00270694.

22 A. I'm at that page.

23 Q. Is this the section you were referring to
24 earlier when you mentioned the voluntary work program
25 section of this contract? Or did you have something



1 were to pay more than \$1 per day?

2 MR. DONOHUE: Object to the form.

3 Q. Why would detainees need to be reclassified as
4 employees if they were paid more than \$1 per day under
5 the voluntary work program?

6 MR. DONOHUE: Object to the form.

7 A. Well, that's a little different than your
8 previous question. Your previous question -- and maybe
9 I'm answering a different question that you asked. But
10 to treat them as employees, they need to determine what
11 fringe benefits they get, and they need to meet all of
12 the requirements that I earlier read. Now, I think
13 you're trying to pose, I think, some kind of hierarchy
14 where they're not treated as an employee but they're
15 paid more or something?

16 Q. I understood you to refer a moment ago to
17 needing to reclassify the detainees as employees if
18 they were paid more than \$1, and I'm asking what
19 requires them to be reclassified as employees merely
20 because they were paid more than \$1 for participating
21 in the voluntary program.

22 MR. DONOHUE: Object to the form.

23 A. Well, okay. So the contract indicates that
24 they are to be paid a dollar a day. And so it would be
25 a breach of the contract to pay them something



1 different than a dollar a day. Separately, if you -- I
2 thought your question was -- I think your initial
3 question was treat them as employees. And to treat
4 someone who doesn't meet all the requirements as an
5 employee would be in breach of the contract, I believe.

6 Q. Is that based on your interpretation of the
7 contract?

8 MR. DONOHUE: Object to the form.

9 A. Yeah. Things like breach are -- I mean, I
10 teach COs and CORs and company people about breach and
11 about the changes and that sort of thing. So I have a
12 layman's, at least, understanding of that. But as I
13 said, I'm not here to interpret the contract and I
14 offer no opinions in my report on interpretation of the
15 contract.

16 Q. Okay. In this solicitation process -- we'll
17 change tack for a moment. So in this solicitation
18 process, are you aware of whether GEO's audited
19 financial statements were provided to ICE as part of
20 its proposal?

21 A. I don't know if they were provided to ICE as
22 part of their proposal.

23 Q. Is it typical for contractors to be required
24 to provide financial statements when submitting a
25 proposal?



1 REPORTER'S CERTIFICATE

2
3 I, CATHERINE A. DECKER, the undersigned Certified
4 Court Reporter, pursuant to RCW 5.28.010 authorized to
5 administer oaths and affirmations in and for the state
6 of Washington, do hereby certify that the sworn
7 testimony and/or proceedings, a transcript of which is
8 attached, was given before me at the time and place
9 stated therein; that any and/or all witness(es) were by
10 me duly sworn to tell the truth; that the sworn
11 testimony and/or proceedings were by me
12 stenographically recorded and transcribed under my
13 supervision, to the best of my ability; that the
14 foregoing transcript contains a full, true, and
15 accurate record of all the sworn testimony and/or
16 proceedings given and occurring at the time and place
17 stated in the transcript; that a review of which was
18 requested; that I am in no way related to any party to
19 the matter, nor to any counsel, nor do I have any
20 financial interest in the event of the cause.

21 WITNESS MY HAND this 10th day of June 2019.

22 *Catherine A. Decker*
23

24 CATHERINE A. DECKER,
25 Washington State Certified Court Reporter, #1975
cdecker@yomreporting.com

